

REMARKS

Allowable Subject Matter

The allowance of Claims 1-7 is acknowledged.

Rejection of Claims 8-12 under 35 U.S.C. §103(a)

Claims 8-12 stand rejected as allegedly obvious in view of U.S. Patent No. 4,234,708 to Edelman ("Edelman"). Applicant respectfully traverses the rejection and statements made in support thereof for the reasons stated below.

The Examiner has stated that Applicants' previous arguments traversing the rejection of Claims 8-12 are unpersuasive and do not discuss the differences between the claimed invention and the cited reference. The Examiner, however, has not provided any specific, point-by-point comments or rebuttal of Applicants' arguments. Applicants, therefore, have attempted in the present paper to restate and clarify their earlier arguments such that the patentability of claims 8-12 over the disclosure of Edelman will become evident.

As the Examiner is aware, to establish a *prima facie* case of obviousness, the cited art must suggest to the skilled artisan both the combination or modification alleged to be obvious and that the combination or modification would have a reasonable likelihood of success. See *In re Vaeck*, 20 USPQ2d 1438 (Fed. Cir. 1991). The cited art also must teach or suggest all of the claim limitations. See *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974). Here the cited reference would not have taught or suggested the claimed invention nor would have provided the requisite expectation of success.

The invention, as exemplified by claim 8, relates to an extrusion blow molded article produced from a linear copolyester having an inherent viscosity (IV) of at least about 0.7 dL/g measured at a temperature of 25°C at 0.5 g/dL concentration in a solvent mixture of symmetric tetrachloroethane and phenol having a weight ratio of symmetric tetrachloroethane to phenol of 2:3 and comprising:

- (1) a diacid component consisting essentially of 90 to 100 mole percent terephthalic acid residues and 0 to about 10 mole percent isophthalic acid residues, naphthalenedicarboxylic acid residues, biphenyldicarboxylic acid residues or a combination of 2 or more of isophthalic, naphthalenedicarboxylic or biphenyldicarboxylic acid residues; and
- (2) a diol component consisting essentially of about 70 to 90 mole percent 1,4-cyclohexanedimethanol residues and about 30 to 10 mole percent neopentyl glycol residues;

wherein the copolyester comprises 100 mole percent diacid component and 100 mole percent diol component.

The extrusion blow molded article ("EBM") thus comprises a linear copolyester prepared from a mixture of 1,4-cyclohexanedimethanol and neopentyl glycol. This copolyester composition has high melt strength and good processability. High melt strength is achieved without the use of a branching agents which can cause gel formation and an increase in shear thinning (see page 9, paragraph 24 of Applicants' disclosure). Applicants further direct the Examiner's attention to the term "linear" which is defined in Applicant's disclosure as "devoid or essentially devoid of residues derived from monomers or reactants having three or more functional groups that typically are present in branched-chain polyesters." Clearly, the polyesters of the

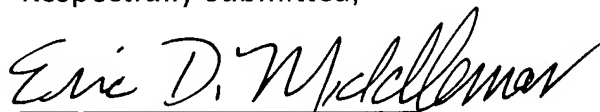
present invention would not be considered as "branched" by persons of ordinary skill in the art.

The disclosure of Edelman, by contrast, describes extrusion blow-molded articles prepared from branched copolyesters and, as noted in Applicants' earlier paper, explicitly teaches away from the use of linear polyesters. Edelman also does not disclose copolyesters containing 1,4-cyclohexanedimethanol and neopentyl glycol but, instead, describes only copolyesters that contain ethylene glycol as the diol component.

Thus, Edelman discloses EBM articles prepared from copolyesters that are (1) not linear (i.e., branched), and (2) contain different glycol components from the polyesters claimed in the present invention. These differences are difficult to ignore. Applicants submit that Edelman plainly would have failed to teach or suggest their invention. Moreover, Edelman discloses nothing that would have pointed the skilled person to make the claimed invention and, in fact, would have directed such a person distinctly away from the invention. When these shortcomings are considered properly, there can be no *prima facie* case of obviousness. Applicants, therefore, respectfully request the Examiner to reconsider and withdraw the rejection.

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Respectfully submitted,

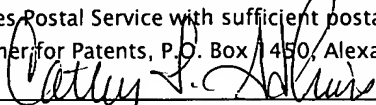


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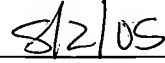
August 2, 2005
Date

CERTIFICATE OF MAILING UNDER 37 CFR 1.8(a)

I hereby certify that this paper (along with any referred to as being attached or enclosed) is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.



Cathy L. Adkins



Date